

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Carrier Current Systems, including Broadband over)	ET Docket No. 03-104
Power Line Systems)	
)	
Amendment of Part 15 regarding new requirements)	ET Docket No. 04-37
and measurement guidelines for Access Broadband)	
over Power Line Systems)	

REPLY COMMENTS OF SBC COMMUNICATIONS INC.

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I. INTRODUCTION AND SUMMARY

SBC Communications, Inc. (SBC) submits the following reply comments in response to the Commission's notice of proposed rulemaking on broadband over power line (BPL) services.¹ In the *BPL NPRM*, the Commission opines that the deployment of BPL could "enhance the economic, educational and social well-being of all Americans."² However, as the Commission also recognized in the *NPRM* and as the record in this proceeding clearly demonstrates, BPL services carry with them a unique potential to cause harmful radio frequency interference for other communications services, including telephone service and wireline broadband services. To address these concerns, the Commission should adopt the interference safeguards proposed in the *BPL NPRM*, especially the "notification requirement," as well as an additional remediation requirement proposed by the National Telecommunications and Information Administration (NTIA). These requirements will help ensure that, if a particular BPL system does cause harmful interference, the source of that interference can be identified and remedied in a quick and reliable fashion.

II. DISCUSSION

A. The Commission Must Ensure that Its Rules Promote Fair Competition Among Communications Providers Without Unfairly Favoring One Technology Over Another.

Congress described the fundamental purpose of the Telecommunications Act of 1996 as providing "a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies

¹ *Carrier Current Systems, including Broadband over Power Line Systems*, ET Docket No. 03-104, *Amendment of Part 15 regarding new requirements and measurement guidelines for Access Broadband over Power Line Systems*, ET Docket No. 04-37, Notice of Proposed Rulemaking, FCC 04-29 (released Feb. 23, 2004) (*BPL NPRM*). While we focus primarily on Access BPL systems in these reply comments, we also urge the Commission to adopt appropriate interference safeguards for In-House BPL systems.

² *BPL NPRM* ¶ 1.

and services to all Americans”³ In the Act, Congress also explicitly directed the Commission to use a variety of regulatory tools to “encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans.”⁴ But the Commission has cautioned that its role in promoting the deployment of new technologies and services “is not to pick winners and losers, or to select the best technology to meet consumer demand.”⁵ Rather, the Commission has recognized that a key to successfully implementing the Act and encouraging competition is to create a level regulatory playing field that facilitates fair competition among different providers and technologies.⁶ Thus, the key objective for the Commission in this proceeding will be to strike an appropriate balance between facilitating the deployment of BPL, while simultaneously safeguarding existing services (including telephone service and competing broadband services) from any harmful interference that may be caused by BPL.

³ See Joint Explanatory Statement of the Committee of the Conference, S. Rep. No. 230, 104th Congress, 2d Sess. 1, 113 (1996).

⁴ Section 706(a) of the Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56 (1996), reproduced in the notes under 47 U.S.C. § 157.

⁵ *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996*, CC Docket No. 98-146, Report, 14 FCC Rcd 2398 ¶ 5 (1999).

⁶ See 2000 Biennial Regulatory Review of Part 68 of the Commission’s Rules and Regulations, CC Docket No. 99-216, Report and Order, 15 FCC Rcd 24,944 ¶ 16 (2000) (“presumptively valid technical criteria will ensure uniformity and a level playing field that will assure continued robust competition in the market for terminal equipment.”); *Amendment of Part 2 of the Commission’s Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, Including Third Generation Wireless Systems*, ET Docket No. 00-258, First Report and Order and Memorandum Opinion and Order, 16 FCC Rcd 17,222 ¶ 20 (2001) (recognizing the need “to provide regulatory neutrality to help establish a level playing field across technologies and foster more effective competition.”); *Concurring Statement of Commissioner Michael Copps re: IP-Enabled Services*, WC Docket No. 04-36, Notice of Proposed Rulemaking, FCC 04-28, (released March 10, 2004) (recognizing the need to address intercarrier compensation in the context of IP-enabled services “to create a level playing field that minimizes arbitrage[] and maximizes the opportunities for new technologies to flourish.”).

In this regard, SBC supports the rights of BPL providers to compete fairly in the communications marketplace. Indeed, as SBC and others recently demonstrated in response to the Commission's *Fourth 706 Inquiry* on broadband deployment in the U.S.,⁷ the market for broadband services is already subject to robust competition, and the addition of BPL service providers further demonstrates that the Commission's heavy-handed regulation of wireline broadband service offered by incumbent telephone companies is both unnecessary and unfair.⁸ At the same time, however, the advent of BPL must not come at the expense of the integrity of other communications services. Allowing BPL systems to cause harmful interference to other competing services would not simply be an unfortunate engineering mistake, but would directly undermine the "pro-competitive" goals of the Act and ultimately disserve consumers by degrading the quality and reliability of other communications services.

B. Parties Have Raised Significant Concerns About the Risk that BPL Service May Cause Harmful Interference to Voice and Wireline Broadband Services Already in Use Today.

The Commission's commitment to fair competition is particularly important in the BPL proceeding, where many stakeholders have raised legitimate concerns about the potential for BPL to cause harmful interference to other communications services, including telephone service and wireline broadband service.⁹ Verizon, for example, points out that BPL systems may interfere with existing voice and digital subscriber line (DSL) services, as well as Very High

⁷ *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996*, GN Docket No. 04-54, Notice of Inquiry, FCC 04-55 (released March 17, 2004) (*Fourth 706 Inquiry*).

⁸ See SBC Comments, GN Docket No. 04-54 (May 10, 2004); SBC Reply Comments, GN Docket No. 04-54 (May 24, 2004); United States Telecom Association Comments, GN Docket No. 04-54 (May 10, 2004); Verizon Comments, GN Docket No. 04-54 (May 10, 2004).

⁹ See *BPL NPRM* ¶¶ 1, 14-26.

Speed Digital Subscriber Line (VDSL) service,¹⁰ which enables not just voice and data services, but video services as well. According to Verizon, the cables used for BPL transmissions may “leak” electromagnetic radiation when used to transport BPL signals, which may have the effect of producing “noise” that can degrade voice and DSL services.¹¹ This potential harmful interference caused by BPL may be of particular concern for VDSL services. As Verizon explains, BPL providers are planning to use frequency bands that overlap with the frequency bands for VDSL.¹² “As a result of this overlap, radiated emissions from certain BPL devices have the potential to interfere with VDSL service, particularly where lines are located close to electric power lines used in connection with such BPL devices.”¹³ BellSouth raises similar concerns about the potential harmful interference that BPL services may cause for traditional voice services.¹⁴ And as the Commission itself recognizes, Verizon, Qwest and Sprint expressed concerns about harmful interference to voice, DSL and VDSL services in their comments on the Notice of Inquiry that preceded the instant *BPL NPRM*.¹⁵

While the “real world” impacts of these concerns are hard to determine at this early stage of BPL deployment, the Commission would be wise to exercise caution in how it addresses the potential for harmful interference. Indeed, according to the Commission’s most recent data, there were 9.5 million DSL lines and 181 million telephone lines in service in the U.S. at the end

¹⁰ Verizon Comments at 2.

¹¹ Verizon Comments at 2.

¹² Verizon Comments at 2.

¹³ Verizon Comments at 2.

¹⁴ BellSouth Comments at 6.

¹⁵ *BPL NPRM* ¶ 17.

of 2003.¹⁶ American consumers and businesses rely on these telephone and DSL services for a variety of important social, economic and public safety uses and the Commission should not take any actions regarding BPL that would jeopardize the reliability of these services.

C. The Commission Must Adopt Sufficient Safeguards to Address the Risk of Harmful Interference Posed by BPL Service.

In light of the concerns raised in the record, the Commission should adopt the interference safeguards it proposed in the *BPL NPRM*, as well as an additional safeguard proposed by NTIA. Regarding the safeguards proposed in the *BPL NPRM*, SBC particularly supports the “notification requirement,” under which BPL operators would submit information about the location and characteristics of their systems to an accessible, centralized database managed by an industry-operated entity.¹⁷ We also support NTIA’s proposal that, when BPL is the suspected cause of harmful interference, BPL operators should be required “to promptly diagnose suspected interference and eliminate actual interference from BPL systems.”¹⁸ We believe that such notification and remediation requirements are critically important mechanisms for attempting to ensure that, if BPL interference problems arise, they can be quickly and reliably traced to their source and remedied. Absent such requirements, providers of other services who experience interference from BPL systems face the prospect of having to undertake expensive and time-consuming efforts to track down and remediate such interference, while their customers are subjected to frustrating, and potentially injurious, service disruptions.

SBC is sensitive to the concerns raised by some commenters about disclosing information that could adversely affect the security of BPL systems or the commercial interests of BPL

¹⁶ See *High-Speed Services for Internet Access: Status as of December 31, 2003*, Wireline Competition Bureau, FCC, at Table 1 (June 2004); *Local Telephone Competition: Status as of December 31, 2003*, Wireline Competition Bureau, FCC, at Table 1 (June 2004).

¹⁷ *BPL NPRM* ¶ 43.

¹⁸ NTIA Comments at 9.

providers.¹⁹ To address any valid concerns about security and/or the disclosure of commercially sensitive information, the Commission should ensure that its notification requirement is appropriately tailored so that the information collected is no broader than necessary to address interference concerns and that access to the database is limited to those with legitimate interests in reviewing that information. But the Commission should make clear that the need to address these concerns does not outweigh the more important need for an accurate, reliable, and centralized database that will facilitate the timely identification and remediation of BPL systems that may cause harmful interference -- especially at this early stage of BPL deployment where the full potential for such interference is not yet well understood.

III. CONCLUSION

As the Commission moves forward in adopting final rules for BPL, SBC urges the Commission to ensure those rules contain appropriate safeguards that protect other communications services from any harmful interference that may be caused by BPL systems.

Respectfully Submitted,

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¹⁹ See, e.g., Southern Linc Comments at 8-9.